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EXAMINER

VAN DOREN, BETH

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/876,477

Applicant(s)

HANEY, RALPH C.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a non-final, first office action on the merits. Claims 1-56 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 11-30, 39-54, and 56 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract that do not apply, involve, use, or advance the technological arts fail to promote the “progress of science and the useful arts” (i.e. the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 11-20, 39-46, and 56 are directed to managing labor activities including steps such as receiving a request, receiving a list of vendors, and generating a message containing information. None of these steps specifically and functionally implemented by any technological element. While the claims recite a communication interface and memory, these recitations of technology are nominal and do not functionally effect the claim limitations. As for claims 21-30 and 47-54, these claims recite a set of logic encoded in a computer readable

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medium. Logic, or computer code, is software per se and software alone is not considered within in the technological arts. Therefore, it is respectfully submitted that claims 11-20, 39-46, and 56 are not within the technological arts.

Although the invention of claims 11-30, 39-54, and 56 produces a useful, concrete, and tangible result, since the claimed invention is not within the technological arts, as explained above, claims 11-30, 39-54, and 56 are deemed to be directed towards non-statutory subject matter.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 6-13, 16-23, and 26-56 are rejected under 35 U.S.C. 102(e) as being anticipated by Dietz et al. (U.S. 6,408,337).

5. As per claim 1, Dietz et al. teaches a system for managing contract labor activities, comprising: a communication interface adapted to be coupled to a communication network, the communication interface operable to receive information from and send information to the communication network (See figure 3, column 2, lines 5-30, column 3, lines 40-55, and column 4, line 53-column 5, line 5 and lines 25-45, which discuss communication means);

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a memory coupled to the communication interface, the memory operable to store information received through the communication interface (See figure 1, column 2, lines 5-30, column 3, lines 40-55, column 4, lines 1-10 and 35-52, which discusses memory); and

a processor coupled to the memory, the processor operable to receive a contract labor request, receive a list of vendors associated with the contract labor request, associate the list with the contract labor request, and generate a message containing information in the contract labor request for at least one of the vendors (See figure 1, column 2, lines 5-30, column 4, lines 1-10, which discusses the processing unit. See column 2, lines 30-55, column 5, lines 25-45 and 50-60, column 6, lines 5-20, column 8, line 50-column 9, line 5, wherein the processor is used to receive a labor request and a vendor or vendors for the request, and the request is sent to the vendor/vendors via an email).

6. As per claim 2, Dietz et al. discloses wherein the contract labor request includes an indication of the skills applicable to the requested labor and an indication of the size of the project (See figure 3, column 8, lines 5-20 and line 50-column 9, line 5, wherein job skills and a project description are defined in the request).

7. As per claim 3, Dietz et al. teaches wherein the processor is further operable to determine an estimate of the cost for the contract labor request, generate a message requesting approval of the contract labor request, and receive approval (See figure 3, column 2, lines 57-67, column 5, lines 35-45, column 6, lines 10-32, wherein an estimate of cost is created and a message requesting approval is generated and sent to a work approver, such as a supervisor, for approval).

8. As per claim 6, Dietz et al. discloses wherein the processor is further operable to:

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receive resume information regarding candidates from at least one of the associated vendors (See column 2, lines 17-42, column 8, line 50-column 9, line 25 and lines 50-65, wherein resume information regarding candidates is received); and

generate a message containing at least part of the resume information (See column 2, lines 30-45 and 57-67, column 5, lines 30-45, column 8, line 50-column 9, line 5, wherein a message containing part of the resume information, such as qualification, is generated).

9. As per claim 7, Dietz et al. discloses wherein the processor is further operable to:

receive verification that some of the resumes have been rejected (See column 10, lines 25-35, wherein some of the candidates with the resumes are rejected); and

generate a message identifying the rejected resumes (See column 10, lines 25-35, wherein a message indicating a rejection and a reason for the disapproval is generated).

10. As per claim 8, Dietz et al. discloses wherein the processor is further operable to:

receive information indicating that a candidate has been selected for hire (See column 2, lines 30-45, column 5, lines 34-45, column 9, lines 1-5, wherein the engaging manager indicates the non-employee worker(s) wanted for the position. See column 9, line 50-column 10, line 5);

generate a message containing a purchase order for the services of the selected candidate (See column 2, lines 57-67, column 5, lines 35-45, column 6, lines 10-32, wherein a purchase order for money to pay for the services of the temporary worker is contained in a message sent to an approver. The purchase order is tied to a work assignment).

11. As per claim 9, Dietz et al. discloses wherein the processor is further operable to:

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receive a compensation request (See column 3, lines 1-11, column 7, lines 15-25 and 40-50, column 11, lines 10-30, wherein the system receives the compensation request of entered time on a time sheet);

generate a message containing information from the compensation request (See column 3, lines 1-11, column 7, lines 15-25 and 40-50, column 11, lines 10-30, wherein a note is made in the system concerning the compensation report, such as a message sent to a time approver);

receive a message indicating that the compensation request is approved (See column 3, lines 1-11, column 7, lines 40-65, column 11, lines 15-40, wherein an indication occurs indicating approval. See also column 8, lines 5-25, which discusses reimbursement and other approvals); and

generate a second message containing information from the compensation request (See column 3, lines 1-11, column 7, lines 40-65, column 11, lines 15-40).

12. As per claim 10, Dietz et al. discloses wherein the processor is further operable to:

receive an invoice (See column 2, lines 57-67, column 5, lines 35-45, column 6, lines 10-32, wherein a statement of rates and money is received);

associate the invoice with a purchase order (See column 2, lines 57-67, column 5, lines 35-45, column 6, lines 10-32, wherein a purchase order for money to pay for the services of the temporary worker is contained in a message sent to an approver. The purchase order is tied to a work assignment);

determine whether the invoice is associated with an approved compensation request (See column 3, lines 1-11, column 7, lines 40-65, column 11, lines 15-40, wherein approval is associated with the request for compensation); and

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generate a message regarding payment of the invoice if it is associated with an approved compensation request (See column 3, lines 1-11, column 7, lines 40-65, column 11, lines 15-40, wherein a message regarding payment is generated associated with the approved request).

13. Claims 11-13 and 16-20 recite substantially similar limitations to claims 1-3 and 6-10, respectively, and are therefore rejected using the same art and rationale as set forth above.

14. Claims 21-23 and 26-30 recite substantially similar limitations to claims 1-3 and 6-10, respectively, and are therefore rejected using the same art and rationale as set forth above.

15. As per claim 31, Dietz et al. discloses a system for managing contract labor activities, comprising: a communication interface adapted to be coupled to a communication network, the communication interface operable to receive information from and send information to the communication network (See figure 3, column 2, lines 5-30, column 3, lines 40-55, and column 4, line 53-column 5, line 5 and lines 25-45, which discuss communication means);

a memory coupled to the communication interface, the memory operable to store information received through the communication interface, the memory further operable to store purchase orders for contract labor requests (See figure 1, column 2, lines 5-30, column 3, lines 40-55, column 4, lines 1-10 and 35-52, which discusses memory); and

a processor coupled to the memory, the processor operable to receive a compensation request, associate the compensation request with a purchase order, generate a message containing information from the compensation request, receive a message indicating that the compensation request is approved, and generate a second message containing information from the compensation request (See column 3, lines 1-11, column 7, lines 15-25 and 40-65, column 11, lines 10-30, wherein the system receives the compensation request with a message in the system

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concerning the compensation report, such as a message sent to a time approver. See also column 8, lines 5-25, which discusses reimbursement and other compensation approvals. See also column 7, lines 40-65 and column 11, lines 15-40, wherein an indication occurs indicating approval).

16. As per claim 32, Dietz et al. discloses wherein the compensation request is a time sheet (See column 3, lines 1-11, column 7, lines 15-25 and 40-50, column 11, lines 10-30, wherein the request is a time sheet).

17. Claims 33, 34, 35, 36, and 39 recite substantially similar limitations to claims 10, 3, 4, 1, and 18, respectively, and are therefore rejected using the same art and rationale as set forth above.

18. Claim 39 recites substantially similar limitations to claims 16 and 17, and is therefore rejected using the same art and rationale as set forth above.

19. Claims 39, 40-46, 47, and 48-54 recite substantially similar limitations to claims 32, 32-38, 31, and 40-46, respectively, and are therefore rejected using the same art and rationale as set forth above.

20. As per claims 55 and 56, claims 55 and 56 recite equivalent limitations to claims 1, 6, 8, and 31, combined, and therefore are rejected using the same art and rationale applied above.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 4, 14, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz et al. (U.S. 6,408,337).

23. As per claims 4, 14, and 24, Dietz et al. discloses wherein determining an estimate of the cost for the contract labor request comprises determining a labor rate based on data regarding similar labor (See column 6, lines 10-35, column 8, lines 50-67, and column 9, line 50-column 10, line 5, wherein the estimate includes a normal labor rate). However, Dietz et al. does not expressly disclose that this utilized normal labor rate is based on the geographic region where the labor is to be performed.

It is old and well known that geographic regions have associated cost of living statistics that are a factor in wage requirements. It is also old and well known that there is an established minimum wage. Dietz et al. discusses using normal labor rates for workers when defining a work assignment. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the normal pay rate of Dietz et al. correlate with a pay rate of a specific region in order to increase the flexibility of the system, allowing the system to be used throughout a range of geographic areas.

24. Claims 5, 15, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dietz et al. (U.S. 6,408,337) in view of Arrowood (U.S. 2002/0010614).

25. As per claims 5, 15, and 25, Dietz et al. teaches wherein receiving a contract labor request includes the anticipated amount of hours to be worked and the period of employment (See column 6, lines 5-31, wherein the labor request includes the anticipated amount of hours and the period of employment). Dietz et al. also discloses budgetary concerns (see at least

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column 6, lines 25-40). However, Dietz et al. does not expressly disclose comparing the anticipated amount of hours to be worked against the period of employment to determine if overtime is required.

Arrowood discloses comparing amount of hours worked against a period of employment to determine overtime of a temporary worker (See paragraphs 0017, 0059, 0082, 0085, 0093-5, and 0151, which disclose a temporary worker and a comparison display of hours worked, overtime, etc.).

Both Arrowood and Dietz et al. disclose a computer-implemented system for staffing employees, including the use of temporary or non-employee workers. Dietz et al. discloses budgetary concerns and that a contract labor request includes the anticipated amount of hours to be worked and the period of employment. Dietz et al. further discloses paying over the normal pay rate as well as paying for a project rather than hourly. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include an overtime determination when considering a contract request in order to increase the efficiency of meeting budgetary constraints by identifying all factors that will lead to accounting dilemmas and cash flow problems. See column 1, lines 40-53.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Driscoli et al. (U.S. 2003/0177051) discloses managing resources of temporary workers.

Puram et al. (U.S. 6,289,340) discloses a consultant matching system that considers skill values and a candidate pool.

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Donnelly et al. (U.S. 6,049,776) discloses a system that staffs projects including staffing projects using external workers.

Kipling (U.S. 2002/0103687) teaches a network for ordering contract workers from a supplier of the workers and seeking approval.

Thompson et al. (U.S. 6,675,151) discloses a substitute fulfillment system that hires replacement workers for positions.

Thomas (U.S. 2002/0055870) discloses a human resource system that matches individuals to jobs, such as contracted consultants.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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August 4, 2005

Susanna M. Diaz
SUSANNA M. DIAZ
PRIMARY EXAMINER

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